

PAUL
HASTINGS

March 29, 2024

The Honorable Vince Chhabria
U.S. District Court, Northern District of California

Re: Outstanding Sealing Motions: March. 12, 2024 Order (Simon ECF No. 438; Snow ECF No. 555)

Dear Judge Chhabria:

Align has been working diligently to narrow as far as is possible its proposed redactions in light of the Court's guidance in the Order Regarding Outstanding Sealing Motions ("Outstanding Sealing Motion Order"), dated March 12, 2024. (Simon ECF No. 438; Snow ECF No. 555). In doing so, Align has identified a potential conundrum in filing renewed sealing motions. This letter proposes a solution to the potential conflict that may result from revised sealing motions filed by Align and 3Shape, and requests a modest extension of time in which Align and 3Shape must file such motions.

Certain documents filed by Align and/or Plaintiffs refer throughout to confidential information produced by Align and non-parties (including 3Shape) in this case, including confidential and proprietary business information, trade secret information, the terms of confidential settlement agreements, and documents subject to one or more protective orders issued by other courts and the International Trade Commission. Align is endeavoring to reduce the redactions for Align confidential information to the smallest possible degree. That said, Align cannot make determinations about third party confidential information, such as 3Shape information, for which the third party will continue to seek protection. If Align were to file a proposed public version of record materials with its forthcoming sealing motion, it would have to conservatively redact third party materials, perhaps overly so, in order to not prejudice 3Shape or another third party. 3Shape is in a similar position.

To solve this problem, and avoid filing an unhelpful public version, Align proposes that it and 3Shape be permitted to file **only** sealed versions of record material reflecting proposed redactions **only for the proposing party**. That is, Align will file a renewed sealing brief with sealed exhibits reflecting redactions only for Align confidential material, and 3Shape will file a renewed sealing brief with sealed exhibits reflecting redactions only for 3Shape confidential material. Neither party will file public materials at this time. Then, within ten (10) days after the Court rules on the revised confidentiality designations, Align will compile master public versions of all filings, reflecting approved redactions for such filings, and file those master versions on the public docket.

Additionally, because the Outstanding Sealing Motion Order implicates 16 briefs and over 350 exhibits filed under seal by either Align or Plaintiffs, Align seeks an additional fourteen (14) days to file new motions to seal and declarations in support thereof. **Therefore, Align respectfully requests that the Court permit it to file new motions to seal by April 16, 2024.**

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3Shape supports this proposal and the relief sought by Align. The Snow and Simon Plaintiffs take no position on the relief sought by Align and 3Shape in this letter.

Sincerely,

/s/ James M. Pearl

James M. Pearl
of PAUL HASTINGS LLP

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